

REMARKS

A. Written Description

Reconsideration is respectfully requested of the rejection of claims 1-17, 22, and 23 under 35 USC §112 as failing to comply with the written description requirement. The language at issue is the recitation that the length of the object is greater than its height and width, and the office action finds that a person of ordinary skill in the art would not understand the specific examples to disclose features generic to all embodiments because “the longitudinal axis can vary based on the orientation of the product.” Applicant submits that the disclosure fully supports the claim language for the following reasons.

In common usage, “longitudinal”¹ refers to the length of an object or to something that extends in the direction of the length, e.g., “lengthwise.” An “axis”² is understood generally to be a line that is used as a reference to determine the position of a point or a surface. Thus, a “longitudinal axis” is generally understood to be a reference line extending in the direction of the length of an object and is used to describe the relative positions of various parts of the object. While the orientation of the longitudinal axis of any given object can vary, the points or surfaces of the object that are defined with reference to that particular orientation must conform to that orientation. In other words, once the orientation of the longitudinal axis is selected, the length of the object is the dimension measured in the direction of the longitudinal axis. If another orientation for the axis is selected, the length might be different, but it does not follow that “length” is not a generic concept to the person of skill in the mechanical arts.

As noted in the office action, the disclosure of the present application states that a main characteristic of the inventive chewable object is that it is “elongated.” A common definition of “elongate”³ when used as an adjective is that the object is “long and thin.” “Slender” is another definition. Thus, once the length of an object is determined, it is not difficult then to determine whether it is longer than it is wide and, therefore, “elongate.” It seems that the examiner has done just that by stating in the office action of December 28, 2009 that the Arnold toy is “‘elongated’ along the depth.”

¹ See attached definition.

² See attached definition.

³ See attached definition.

Accordingly, applicant submits that the person of ordinary skill in the art would read the disclosure of the present application to describe an object that is longer than it is wide in generic terms, and that the specific embodiments fully conform and support that generic description. Therefore, applicant requests withdrawal of the rejection based on the asserted failure to comply with the requirement of a written description.

B. The Rejection Based on Prior Art

Reconsideration of the rejection of claims 1-5, 11-13, 16 and 17 under 35 USC §102(a) as anticipated by Arnold is respectfully requested.

Claim 1 has been amended to clarify the orientations of the sides of the object that form dihedral angles to provide edges that clean the animal's teeth as it chews the object.

The disclosure describes the chewable object of the invention as comprising at least two dihedral angles. In a strict geometrical sense, a dihedral angle is a figure formed by two planes that intersect at a line⁴. The present disclosure, however, is clear that "dihedral angle" refers to elements of three-dimensional chewable objects, these dihedral angles being defined by sides oriented at an angle α to intersect in an approximately straight line, which may be shaped to be convex or concave. The edges extend approximately along the entire length of the object and may also be slightly rounded. See, page 8, at lines 20-31.

The sides are not necessarily strictly planar (see, page 14, at line 30), and figure 1 shows sides that are not planar when viewed in cross section. Nevertheless, the edges of the dihedral angles are parallel to the longitudinal axis between the two ends of the object. See, page 15, line 1.

The chew toy of Arnold is essentially flat and does not include at least two dihedral angles formed by sides oriented to intersect at a line as presently defined in claim 1. The top and bottom surfaces are parallel and do not form a dihedral angle, and the curved edge is not oriented with respect to the top or bottom surfaces to intersect in a straight line. Accordingly, Arnold does not anticipate the claim as amended.

Moreover, the differences between the chew toy described by Arnold and the claimed invention would not have been obvious.

The examiner is again asked to reconsider his position that dicalcium phosphate is an active constituent as recited in claim 1. Applicant recites an abrasive in claim 14 and specifically recites calcium monohydrogen phosphate in claim 15. Thus, the finding that the dicalcium phosphate disclosed in Arnold as a "mineral" is an active constituent

because it is an abrasive, is inconsistent with the claimed subject matter. Dicalcium phosphate is primarily an excipient, or “tableting agent” and not an active constituent, with either a therapeutic, remedial or preventive activity or an anti-tartar activity reinforcing the dental structure.

Reconsideration is respectfully requested of the rejection of claims 1-13, 16, 17, 22 and 23 under 35 USC §103 as unpatentable over Arnold in view of Markham.

As discussed above, the claims are directed to a chew toy wherein the edges are formed by dihedrons and extend in a particular direction. The edges in Markham extend in a direction opposite to those of Arnold (taking the longitudinal axis to be that selected by the examiner in the office action), which indicates that there is an inherent contradiction for the person of ordinary skill in the art to make the combination as suggested by the office action. Thus, such a combination would not have been obvious.

Reconsideration is further requested of the rejection of claim 14 and 15 under 35 USC §103 as unpatentable over Arnold in view of Markham and Rich.

Applicant submits that there is a clear distinction between being part of a matrix and “on” the matrix. Rich teaches only a dried toothpaste formulation that is expressly coated on an outer surface of the object so that the dog’s saliva can rehydrate it. Rich essentially teaches away from dispersing the toothpaste “in” the matrix by the desire to have it on the exterior of the chew toy. Thus, applicant submits that the proposed modification would not have been obvious.

C. Conclusion

It is submitted that this application is in condition for allowance, and an early indication thereof is respectfully requested. The examiner is invited to contact the undersigned to resolve any outstanding issues.

⁴ See attached definition.

All necessary extensions of time are hereby requested. Please charge any fee deficiency or credit any overpayment to Deposit Account No. 50-1088.

Respectfully submitted,
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